

In the Matter of THE COLUMBUS BROADCASTING COMPANY, INC. and
INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL
UNION NO. 1193, AFFILIATED WITH AMERICAN FEDERATION OF LABOR

Case No. 10-R-1177.—Decided June 3, 1944

Weekes & Candler, by *Messrs. Emmett B. Cartledge*, and *John Wesley Weekes*, of Decatur, Ga., for the Company.

Messrs. Henry H. Fincher and *John A. Thompson*, of Montgomery, Ala., for the Union.

Mr. John A. Weiss, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Brotherhood of Electrical Workers, Local Union No. 1193, affiliated with American Federation of Labor, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The Columbus Broadcasting Company, Inc., herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Paul S. Kuelthau, Trial Examiner. Said hearing was held at Columbus, Georgia, on May 3, 1944. The Company and the Union appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. At the hearing, the Company moved to dismiss the petition on the ground that the unit sought by the Union is inappropriate. For reasons appearing hereinafter, the motion is hereby denied. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

56 N. L. R. B., No. 211.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Columbus Broadcasting Company, a Georgia corporation, is engaged in operating a radio station at Columbus, Georgia, under the call letters WRBL, for the purposes of broadcasting radio programs. The Company is an affiliate of the Columbia Broadcasting System, a national broadcasting organization. Programs of that network, which are broadcast on a national scale and transmitted locally by Station WRBL, constitute approximately 40 percent of the operating broadcasting time of Station WRBL. It is a 250-watt station and its programs have a broadcast range outside the State of Georgia.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

International Brotherhood of Electrical Workers, Local Union No. 1193, affiliated with the American Federation of Labor is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of its technicians until the Union has been certified by the Board.

A statement prepared by the Field Examiner and introduced in evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.¹

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2, (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

The Union seeks a unit composed of all technicians employed full time at the Company's transmitter, including the chief engineer.² The Company agrees, but would include two studio announcers who are also licensed technicians.

¹ The Field Examiner reported that the Union submitted a petition bearing the names of four employees of the seven in the unit alleged to be appropriate.

² The engineering department employees, headed by the chief engineer and comprising four full-time technicians plus three regular part-time student technicians, are engaged principally, in work at the broadcasting transmitter, located outside the town of Columbus. They also perform some maintenance and technical work at the studios as well as necessary technical work for remote-control broadcasts. They are licensed, in varying degrees, by the Federal Communications Commission.

The two announcers at the studio operate recording machinery. Although they qualify as technicians, they are not employed as such, but as announcers. We shall exclude them.³

The Union would include the chief engineer and the Company questions his inclusion because of his position. The record indicates that he is in charge of the transmitter station, assigns and supervises the work of all the technicians, and has authority to effectively recommend their hire and discharge. We find that he falls within our customary definition of a supervisory employee and, accordingly, we shall exclude him.

We find that all technicians employed in the Company's engineering department, excluding the chief engineer and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the payroll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

The parties were unable to agree with respect to the eligibility of three part-time high school student employees, whom the Union urges are ineligible to vote and the Company contends are eligible. They work approximately 20 to 25 hours each week on regular schedules as do other technical employees. In our opinion, they perform a sufficient amount of technical work in the engineering department to give them a substantial interest in the conditions of employment therein. We find, therefore, that they are eligible to vote.⁴

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with the Columbus

³ See *Matter of Colorado Radio Corporation*, 55 N. L. R. B. 78; *Matter of Inter-City Advertisina Co., Inc., Operators of WAYS, Charlotte, N. C.*, 55 N. L. R. B. 256

⁴ See *Matter of Federal Scientific Instrument Corp.*, 49 N. L. R. B. 362; *Matter of Wagner Folding Box Corporation*, 49 N. L. R. B. 346.

Broadcasting Company, Inc., an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Tenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding any who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by International Brotherhood of Electrical Workers, Local Union 1193,⁵ for the purposes of collective bargaining.

⁵ Union's name, at its request, to appear on ballot in this form and in the event it wins the election to be certified as set forth in Section II.